APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,375	10/30/2003	Zhangwei Xu	MS1-1646US	7891

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EXAMINER
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ART UNIT	PAPER NUMBER
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/697,375	XU ET AL.
		Examiner	**Art Unit**	
		Jinsong Hu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 October 2003</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-72</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-72</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-72 are presented for examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention, a

processor-readable medium, is directed to non-statutory subject matter. Corrections

are required.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-6, 8-19, 23-32, 35-51, 53-64 and 67-72 are rejected under 35

U.S.C. 102(e) as being anticipated by Sudo et al. (US 6,556,542).

6.   As per claims 1-2, 6 and 8, Sudo teaches the invention as claimed including a

processor-readable medium comprising processor-executable instructions for:

sending test data to a plurality of clients [col. 4, lines 47-60];

receiving a rate R_i which is based at least in part on a rate at which the test data

was received by at least some of the plurality of clients [col. 4, line 61 – col. 5, line 9;

col. 6, lines 31-42; col. 9, lines 50-64; col. 10, lines 31-45]; and

calculating a rate R0 at which to send an image to the plurality of clients, wherein

the rate R0 is a function of at least some of the R_i [col. 5, lines 48-60; col. 6, line 43 –

col. 7, line 6; col. 8, lines 11-15 & 43-49; col. 12, lines 10-24].

7.   As per claim 3, Sudo teaches the steps of sending an initial transmission of test

data; setting a timer; and sending additional test data until the timer expires [col. 7, lines

20-65; col. 8, lines 15-30].

8.   As per claims 4 and 5, Sudo teaches sending a first portion of the image [i.e., a

fixed packet, could be image or data] at a first rate [col. 8, lines 32-49]; and sending a

second portion of the image at a second rate [i.e., when congestion occurs, adjust the

transmission rate; col. 12, line 51 – col. 13, line 5].

9.   As per claim 9, Sudo teaches the steps of setting a timer to indicate a maximum

period of time during which to wait for a response from the plurality of clients; and

receiving data-transfer statistics from the at least some of the plurality of clients within

the maximum period [col. 7, lines 41-65; col. 8, lines 15-30].

10.   As per claim 10, Sudo teaches calculating the rate R0 comprises instructions for

setting R0 as a function of a minimal value of the rate R_i for all i [col. 5, lines 29-32; col.

12, lines 10-24].

11.   As per claims 11 and 13, Sudo teaches dividing the plurality of clients into at

least two groups; and setting R0 equal to a minimum R_i associated with clients within

one of the at least two groups [co. 12, line 49 – col. 13, line 5].

12.   As per claim 12, Sudo teaches selecting one of the R_i; and setting R0 equal to

the selected R_i, less a de-rating factor [col. 8, lines 32-42].

13.   As per claims 14 and 15, Sudo teaches sending the image at the rate R0 during

a first multicast session, opening a second multicast session; and sending the image at

a rate less than R0 in the second multicast session [co. 12, line 49 – col. 13, line 5].

14.   As per claims 16-19, since they teach the same limitation as claims 1-4 from

different prospectors [i.e., server and client], they are rejected for the same basis as

claims 1-4 above.

15.   As per claim 23, Sudo teaches setting the rate R_i equal to an average rate at

which data was received [col. 7, line 66 – col. 8, line 4].

16.   As per claim 24, Sudo teaches setting rate R_i equal to a minimum rate at which

data was received [col. 12, lines 25-50].

17.   As per claim 25, Sudo teaches setting the rate R_i as a function of the rate at

which data was received; and de-rating the rate R_i to result in a safer value [col. 12, line

10 – col. 13, line 5].

18.   As per claims 26 and 27, Sudo teaches receiving an image at a rate R0 during a

first multicast session if R0 is less than R_i and receiving the image during a second

multicast session if R0 is more than R_i [col. 7, lines 41-65; col. 8, lines 15-30].

19.   As per claims 28-32 and 35-41, since they are method claims of claims 1-6 and

8-15, they are rejected for the same basis as claims 1-6 and 8-15 above.

20.   As per claims 42-51 and 53-57, since they are manufacture claims 1-3, 6, 8-19

and 23-27, they are rejected for the same basis as claims 1-3, 6, 8-19 and 23-27 above.

21.   As per claims 58-64 and 67-72, since they are apparatus claims 1-3, 6, 8-19 and

23-27, they are rejected for the same basis as claims 1-3, 6, 8-19 and 23-27 above.

Claim Rejections - 35 USC § 103

22.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

23.   Claims 7, 20-22, 33-34, 52 and 65-66 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Sudo et al. (US 6,556,542) as applied to claims 1-6, 8-19, 23-

32, 35-51, 53-64 and 67-72 above, in view of Perkins et al. (US 6,496,477).

24.   As per claims 7, 20-22, 33-34 and 65-66, Sudo teaches the invention

substantially as claimed in claim 1. Sudo does not specifically teach UDP packet and

data decompression step. However, Perkins on the other hand teaches the UDP packet

and data decompression step [col. 36, lines 23-32]. It would have been obvious to a

person of ordinary skill in the art at the time the invention was made to include Perkins'

UDP packet and data decompression step in Sudo's system because they are well

known in the art for being used for media data transmission.

Conclusion

25.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

Aoki (US 6,563, 822), Chemaytelli et al. (US 20020194325) and Bonomi et al.

(US 5,838,681) disclose rate testing system.

26.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965.

The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number

for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jinsong Hu

October 12, 2007